



# NEWS

Judicial Council of California  
ADMINISTRATIVE OFFICE OF THE COURTS  
Public Information Office  
(415) 865-7740

Lynn Holton, Public Information Officer

Release Date: October 8, 2002

Release Number: S.C. 41/02

## **SUMMARY OF CASES ACCEPTED DURING THE WEEK OF SEPTEMBER 30, 2002**

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#02-161 Department of Finance v. Commission on State Mandates, S109219. (C037645; 100 Cal.App.4th 243.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents the following issue: For purposes of the constitutional requirement that the state reimburse the costs incurred by a local entity whenever the Legislature or any state agency mandates a new program or higher level of service (Cal. Const., art. XIII, § 6), is a new program or higher level of service “mandated” by the state only if the local entity is legally compelled to participate in the program or to offer the higher level of service, or is reimbursement also required if the local entity, because of economic or financial circumstances, has “no reasonable alternative” or “true choice” not to participate in the program with which the higher level of service is associated?

#02-162 San Diego Unified School District v. Commission on State Mandates, S109125. (D038027; 99 Cal.App.4th 1270.) Petition for review after the Court of Appeal affirmed the judgment in an action for writ of administrative mandate. This case presents the following issues: For purposes of the constitutional requirement that the

(over)

state reimburse the costs incurred by a local entity whenever the Legislature or any state agency mandates a new program or higher level of service (Cal. Const., art. XIII, § 6), is

the state required to reimburse local school districts for (1) all or part of the administrative or procedural costs incurred by school districts in those school expulsion proceedings in which state law mandates the expulsion of students who possess a firearm at school or at a school activity off school grounds, and (2) all or part of the costs incurred by school districts in complying with the procedural requirements established by state law in those school expulsion proceedings in which expulsion is authorized but not required by state law? (See Ed. Code, §§ 48915, 48918.)

#02-163 People v. Alas, S109356. (A092852; 100 Cal.App.4th 293.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in People v. Hernandez, S105271 (#02-85), which presents the following issues: (1) Did the trial court err in discharging a juror during trial? (2) If so, was the error prejudicial? (3) If so, is retrial barred by the double jeopardy provisions of the federal and state Constitutions?

#02-164 People v. Legion Ins. Co., S109452. (B149841; unpublished opinion.) Petition for review after the Court of Appeal affirmed an order denying a motion to vacate the forfeiture of a bail bond in a criminal case. The court ordered briefing deferred pending decision in People v. Seneca Ins. Co., S104487 (#02-45), which present the following issue: Are the requirements of Penal Code section 1166, specifying the findings a trial court must make before releasing a convicted defendant on bail prior to sentencing, applicable where the defendant pleads guilty or no contest or only where the defendant is convicted on a verdict of guilty?

#02-165 In re Ofir M., S109398. (H023435; unpublished opinion.) Petition for review after the Court of Appeal affirmed in part and reversed in part orders in a wardship proceeding. The court ordered briefing deferred pending decision in In re Robert B., S103022 (#02-21), which presents the following issue: Do ceramic spark plug chips constitute an “other instrument or tool” within the meaning of Penal Code section 466, which prohibits the possession of a “picklock, . . . crowbar, screwdriver, . . . master

key, or other instrument or tool with intent feloniously to break or enter into any vehicle”?

## **DISPOSITION**

#02-49 People v. Gruninger, S103703, was transferred to the Court of Appeal for reconsideration in light of People v. Superior Court (Jimenez) (2002) 28 Cal.4th 798.

The following cases were dismissed and remanded to the Court of Appeal:

#02-89 Barnes v. Superior Court, S105771. The opinion of the Court of Appeal, originally printed at 96 Cal.App.4th 631 and previously ordered republished, was ordered to remain published.

#01-152 Gursey, Schneider & Co. v. Wasser, Rosenson & Carter, S100426.

#

G:\Jc\_serv\comm.\mayo\ws02\ws093002